



## ***Planning Commission Meeting Minutes***

DATE:	April 15, 2014
APPROVED BY:	Timothy Brotzman, Secretary Pro-tem

### **MINUTES OF THE LAKE COUNTY PLANNING COMMISSION**

**March 25, 2014**

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Chair Zondag called the meeting to order at 5:33 p.m.

The Chair thanked Mr. Brotzman for serving as Secretary Pro-tem for the night as Mr. Schaedlich was not able to attend. He has chosen to vote only to break a tie vote.

#### **ROLL CALL**

The following members were present: Messrs. Adams, Brotzman, Franz (alt. for Schaedlich), Morse, Pegoraro (alt. for Troy), Siegel, Zondag, and Mmes. Hausch and Pesec. Legal Counsel present: Assistant Prosecutor Joshua Horacek. Planning and Community Development Staff present: Mr. Radachy and Ms. Myers.

#### **MINUTES**

Mr. Pegoraro moved to approve the minutes of February 25, 2014 as submitted and Mr. Morse seconded the motion.

Seven voted "Aye".

#### **FINANCIAL REPORTS**

##### **February 2014 Financial Report**

Mr. Radachy stated no subdivisions were received, but there were a couple of lot splits. The intern has started and received her first pay already. Staff's wages have gone up.

Mr. Pegoraro moved to accept the February 2014 Financial Report as submitted and Ms. Hausch seconded the motion.

All voted "Aye".

Mr. Siegel arrived at 5:36 p.m.

#### PUBLIC COMMENT

There was no public comment.

#### LEGAL REPORT

Mr. Joshua Horacek, Assistant Prosecutor, stated there was no legal report.

The Chair asked for the current standing of Kimball Estates. Mr. Horacek said that his last conversation with Mr. George Hadden indicated that plans had been submitted to the developer, Mr. Hamilton. Mr. Hamilton had scheduled a meeting this week or next with his engineer to review it.

The Chair asked if there was a time limit on this. It has now been seven years. Mr. Horacek replied that the developer is cooperating at this time. His cooperation is probably the best bet to get this work done. We do not want to push him too hard until it is absolutely necessary. Hopefully, Mr. Hadden will hear back about the plans in the next week or two and then Mr. Horacek will know better where we stand.

Mr. Brotzman received a copy of the letter that Mr. Hadden sent to the developer via the Township. Twice he asked him how they had advised Mr. Hamilton in terms and conditions on coming onto his property to do the work and the remuneration for the work they were going to do. There has been no answer from the County Engineer's office despite two requests for that. He asked Mr. Horacek if he knew how Mr. Hadden may have communicated to Mr. Hamilton their (Brotzman's Nursery's) needs and desires. Off the top of his head, Mr. Horacek did not. He thought Mr. Hadden had sent Mr. Brotzman an email today explaining some of the remuneration issues. He knew Mr. Hadden was going to have a discussion with Mr. Hamilton about it in the next couple days.

#### DIRECTOR'S REPORT

Mr. Radachy reported on the following items:

- Staff has helped the Soil & Water District apply for agriculture easements for three farms in Madison Township.
- We reported to ODNR Coastal Commission on the progress of the Eastern Lake County Local Tributaries Balanced Growth Plan that was done in 2012. They accepted the report and we have retained their endorsement of that Plan.
- We updated and released population information for Lake County based on the Ohio Dept. of Development's census population figures. A new handout will be going out to the communities. Lake County population is at 229,000 plus, which is slightly down from the 230,000 in the 2010 Census. Every community except for Willoughby and Concord lost a little bit of population.

Mr. Pegoraro asked if the increases in Willoughby and Concord offset the losses in the rest of the County and was told by the Director that they did not.

ODOB has done projections from 2010, 2020, 2030 and 2040, which show the County population is expected to be at 229,000 for the next thirty years. We are expecting zero growth. After 2040, we are expected to actually start losing population.

Mr. Radachy had not checked into the job situation in the tri-county area, which Mr. Adams stated was the key to population.

- The median age was tracked from the 1970 Census through the 2010 Census. In 1970, the median age in Lake County was 27.3 years and in 2010, it was 43.3 years of age. The only municipality who has not really increased in median age is Painesville City. Kirtland Hills has a median age of 55. The higher the median age, the lower the population composition is comprised of children, which translates into school consolidations and closings continuing.

Mr. Zondag asked if there was truth in what he had heard about putting a hold on the Vrooman Road Bridge. Mr. Radachy could not confirm this.

- Mr. Radachy had met with the Concord Township Trustees at the beginning of the month to discuss home occupations and other zoning issues in their Comprehensive Plan. The new intern, Ms. Emma Posillico, offered some ideas on how to get the occupations in compliance. These were given to the Zoning Commission.

Ms. Pesec arrived at 5:44 p.m.

## ANNOUNCEMENTS

Mr. Radachy announced that a save-the-date-card will be sent out shortly for the June 6, 2014 NE Ohio Regional Planning and Zoning Workshop to be held in Geneva-on-the-Lake. They are still recruiting speakers at this time.

## SUBDIVISION REVIEW

Leroy Township – Stein Farms, Phase 1, Resubmitted Final Plat, 20 Lots, 39.876 Acres; Stein Farms, Phase 2, Resubmitted Final Plat, 20 Lots, 58.0367 Acres; Stein Farms, Phase 3, Resubmitted Final Plat, 21 Lots, 45.844 Acres; Stein Farms, Phase 4, Resubmitted Final Plat, 15 Lots, 33.4424 Acres

There were four Final Plats on the table for Stein Farms, Phases 1-4 in Leroy Township. They needed to be taken off the table for discussion.

Mr. Morse moved that Stein Farms, Phases 1-4 Final Plats be taken off the table and Ms. Hausch seconded the motion.

All voted "Aye".

Leroy Township – Stein Farms, Phase 1, Resubmitted Final Plat, 20 Lots, 39.876 Acres

Mr. Radachy took the stipulations and comments reported from the January meeting staff reports and combined them with the developer's statements from their meeting with staff. Below are the stipulations, comments and statements on the first phase:

### **Proposed Final Plat Stipulations:**

1. Sight distance does not comply on east bound Leroy-Thompson Road with the 500 feet required by the Lake County Subdivision Regulations. *Article IV Section 3(C)(1)*
  - a. We are concerned that the roadway outlet will be insufficient. *Leroy Township Trustees*

**Developer response:** Verification of compliance with the required distance is ongoing and will be coordinated with the Lake County Engineer's Office.

**Planning and Community Development:** We are dependent on the Lake County Engineer in helping us determine proper sight distance.

**Lake County Engineer:** Sight Distance Analysis

1. The calculations for sight distance lengths shall be in accordance with the most current edition of the ODOT L&D Manual Volume 1.

The posted speed on Leroy-Thompson is 45 mph. The preferred design speed shall be 5 mph higher than the legal speed. (L&D Vol 1). Therefore, all sight distance calculations shall be based on a design speed of 50 mph. (Historical counts were also reviewed. The 85<sup>th</sup> percentile speed was recorded as 51 mph.)

Based on Design speed of 50 mph:

SSD = 425 feet (stopping sight distance)

ISD = 555 feet (intersection sight distance)

The ODOT L&D Manual Volume 1, Section 201.3 allows for only the SSD to be provided, at a minimum, when the ISD cannot be satisfied due to environmental or right of way constraints. It also states that if the ISD cannot be attained, additional safety measures such as warning signs be provided. These additional safety measures must be included as part of the Subdivision Improvement Drawings.

SSD is calculated with the driver's eye height of 3.5 feet and an object height of 2.0 feet. The profile submitted uses an object height of 3.5 feet.

Horizontal sight distance calculations must be submitted for review.

The line of sight easement must have restrictions that maintain the area for proper sight distance perpetually. (Line of sight easement will be required to be dedicated to the proper authority. *LCP&CD*)

2. Staff questions the sight distance compliance west bound on Leroy-Thompson Road with the 500 feet required by the Lake County Subdivision Regulations. *Article IV Section 3(C)(1)*
  - a. We are concerned that the roadway outlet will be insufficient. *Leroy Township Trustees*
  - b. Required sight distance for proposed intersection with Leroy-Thompson Road must be met. *L.C. Engineer's Office*

**Developer response:** Verification of compliance with the required distance is ongoing and will be coordinated with the Lake County Engineer's Office.

3. Glacier Cliff block length is 3,179.94 feet +/- . This exceeds the maximum block length of 2,100 feet by 1,179.94 feet. *Article IV Section 3(G)(2)* Variance was granted with conditions. Those conditions have not been adhered to yet.

**Developer response:** Stop signs will require traffic in all directions to stop at each intersection. This stop sign requirement will be shown on the improvement plans.

**Planning and Community Development:** The Developer's response does not address the issue of speed along a block length that was varied by the Planning Commission. Staff supplied options such

as islands, changes in pavement types, and curb bump-outs as options. Staff and the Developer's Engineers discussed the options and they will look at them and other types when they submit the improvement plans.

4. Road intersections are required to have 30 degree turnouts. The intersection of Glacier Cliff and Leroy Thompson Road only has one turnout. *Article IV Section 3(B)(11)*

**Developer response:** The required turnout will be provided in the roadway pavement although a turnout is not provided in the right-of-way.

5. Until Improvement Plans for the Subdivision are approved, properly endorsed and accepted, no improvements such as sidewalks, water supply, storm sewers, sanitary sewerage facilities, gas service, electric service or lighting, grading, paving or surfacing of streets shall hereafter be made by the owner or owners or his or their agent, or by any public service corporation at the request of such owner or owners or his or their agent. *Art. I, Sec 4, B*

**Developer response:** No Comment.

6. The Plat cannot be recorded until the improvements are installed, inspected, accepted and placed into maintenance or a construction surety or bond is in place to guarantee construction of the improvements. *Article V Section 10*

**Developer response:** No Comment.

7. Any subdivision with a preliminary plan filed after 1/27/04 will be required to provide a three-year maintenance bond or surety when the subdivision goes into the maintenance phase. *Article V Section 8(D)*

**Developer response:** No Comment.

8. Any changes to lot size, frontage or other dimensions required by other agencies (County Engineer, Lake County General District Health District, US Army Corps of Engineers, OEPA, etc.) will require the Plat to be resubmitted. *Article V Section 8(D)*

**Developer response:** No Comment.

9. Signature lines need to be corrected. Replace Leroy Township Trustee Linda Burhenne with Heather Shelton and replace Lake County Planning Commission Secretary Jason Boyd with Russell Schaedlich. *Article III Section 6 (D)(1)(c)*

**Developer response:** Signature lines were revised per requested.

10. Proper easement language with storm sewer and drainage easements will be determined when the improvement plans are submitted. Changes may be required to the Plat. Lake County Board of Commissioners will not take any storm water easements. *Article III Section 6 (D)(1)(e) & (h)*

**Developer response:** No Comment.

11. Easement language on the cover sheet and on the Plat Map must conform. The cover sheet has easement language for Local Service Drainage Easement and the Plat has Drainage and Storm Sewer Easements on it. The standard easement language for easements handling storm water facilities that are maintained by the HOA or adjacent homeowners is the Local Service Drainage Easement. *Article III Section 6 (D)(1)(e) & (h)*

**Developer response:** Easement Language has been revised per request.

12. Any mortgages on the right-of-way must be released prior to the Plat being recorded. A title policy will be required to verify if mortgages exist or does not exist. *Article III Section 6 (D)(1)(d)*

**Developer response:** There is no mortgage on any of the property. A title policy will be provided prior to the filing of the plat in order to verify no mortgage exists.

13. Stub streets are prohibited by the Lake County Subdivision Regulations. A temporary cul-de-sac easement for Glacier Cliff is required to be shown on the Plat. *Art. III Sect. 6 (D)(3)(h)*

**Developer response:** A temporary cul-de-sac easement was added to Glacier Cliff.

14. Ownership of parcel 07A-008-0-00-005-0 needs to be shown. *Article III Section 6(D)(3)(m)*

**Developer response:** Parcel 7A-8-5 is owned by Lois J. Stein and is labeled on the plat accordingly.

15. Existing structures must be removed prior to final approval. *Leroy Twp. Zoning Inspector*

**Developer response:** Structures will be removed prior to filing of the plat.

16. Prior to issuance of a Certificate of Occupancy, the Lake County Building Department shall have confirmation and receive the Plumbing Certificate of Use from the Lake County General Health District, and confirmation and receive the Final Grade / Drainage Inspection from the Lake County Engineer's Office or the Jurisdiction's City / Village Engineer. *L.C. Building Official*

**Developer response:** No Comment.

17. No residential building or structure, in whole or in part, shall be used or occupied until the residential building official has issued an approval in the form of a certificate of occupancy. The certificate of occupancy shall indicate the conditions under which the residential building shall be used. The building owner shall only use the structure in compliance with the certificate of occupancy and any stated conditions. The residential structure and all approved building service equipment shall be maintained in accordance with the approval. When a residential building or structure is entitled thereto (constructed according to the approved construction documents, final tests and inspections are completed, and no orders of the building official are outstanding,

or as permitted in section 111 of the current 2007 Residential Code of Ohio and all successors thereto), the residential building official shall issue a certificate of occupancy in a timely manner.  
*L.C. Building Official*

**Developer response:** No Comment.

18. The Subdivision review requests for the Stein Farm Subdivision Plats Phases 1 through 4 can be summarized with our earlier comments. Furthermore, without improvement plans, it is difficult to determine if the proposed Plat layout will conform to the improvement plans. Although the County Engineer can approve this general Final Plat layout, the County Engineer cannot recommend that the Plat be recorded until either the improvements are completed or surety is posted to complete the Subdivision. *Lake County Engineer*
19. The preservation easement would be better served as a conservation easement to a proper authority. The developer shall explore the possibility of dedicating the preservation easement as a conservation easement.

**Proposed Plat Comment:**

1. Lots with a 20 foot drive will be addressed with the street it is located on. *Leroy Twp. Zoning Inspector*

**Developer response:** No Comment.

2. It is noted that access to the Subdivision is proposed to be from Leroy-Thompson Road, not SR 86, but the Subdivision entrance is approximately 700 feet from SR 86. A majority of the traffic is expected to enter and exit via SR 86.

**Developer response:** No Comment.

3. Subdivision lacks allowances for adequate fire prevention. *Leroy Twp. Fire Dept.*

**Developer response:** A pond and dry hydrant will be provided as part of Phase 1 improvements.

4. No hydrants, only one way into the development. A pond and dry hydrant would be needed for fire prevention. *Leroy Twp. Fire Dept.*

**Developer response:** A pond and dry hydrant will be provided as part of Phase 1 improvements.

5. We want to be in the same trench as power and phone. *Time Warner Cable*

**Developer response:** No Comment.

6. The intersection of SR 86 and Leroy-Thompson Road generally exhibits poor intersection sight distance to the southeast due to a combination of vertical and horizontal curvatures.



Leroy-Thompson Road intersects SR 86 at a skew at an angle below the recommended minimum angle of 70 degrees for unsignalized intersections. This heavy skew compounds the difficulty of executing turns to and from Leroy-Thompson Road.

Presently this intersection does not exhibit a noteworthy history of crashes. This Office believes this is due to very light existing traffic volumes. The crash problem is expected to worsen with additional traffic that will likely include an increase in young, inexperienced drivers.

Please identify the expected treatment for school bus pickups/drop-offs. Will the stops be on SR 86, Leroy-Thompson Road, or from within the Subdivision? Again, sight distance conditions on SR 86 are not favorable for pick-up and drop-offs for large numbers of students.

**Developer response:** Due to the fact that Glacier Cliff will ultimately be over 3,000 feet long, the expected treatment for school bus pickups and drop-offs is that they would occur on Leroy Thompson Road.

The Ohio Department of Transportation (ODOT) requests a thorough analysis of intersection sight distance at the intersection of SR 86 and Leroy-Thompson Road as a condition of approval for this Subdivision to determine whether any reasonable improvements can be made to improve the safety of the operation at this intersection as a condition of approval. *ODOT*

**Developer response:** It is duly noted that The Ohio Department of Transportation has requested that a thorough sight distance analysis be performed at the State Route 86 and Leroy-Thompson intersection.

Staff stated that one of the major issues on Phase 1 was the sight distance. The Surveyor/Engineering firm submitted to the County Engineer had a diagram showing how he could get a sight distance of 350 feet from the currently proposed location of the new road. The 350 feet is still substandard to the Subdivision Regulations. The County Engineer also had some issues on how the sight distance was calculated. The County Engineer requested that they recalculate the sight distance based on an object at two feet instead of three and a half feet. The sight distance still needs to be calculated correctly. The Developer has not looked at the sight distance in the opposite direction.

There was a cross-hatched area on Sublot 1 that was a sight distance easement. It will be required to dedicate that sight distance easement to the County because Leroy-Thompson Road is a County road and we would need to ensure that area remains clear in order to maintain the 350-foot sight distance.

Stipulation numbers one, two and three are to continue to be stipulations that are not fulfilled. The block distance was varied. Mr. Radachy discussed traffic calming devices that could be used inside of the right-of-way. These are items that cannot be addressed until the Improvement Plans are submitted. The County Engineer said these devices would be inside of the right-of-way and the right-of-ways for the sublots would need to be adjusted. The

Developer's initial statement was that they would just put a random stop sign in the middle of the block.

Stipulation number 4 would remain the same. They provided a turnout on the pavement, but did not provide a turnout on the right-of-way where they connect to Leroy-Thompson Road. The Developer had no comments on stipulations five, six, seven and eight. On nine, they have revised the signature lines on the Cover Sheet. They also revised the easement language on the Cover Sheet. They say they do not have a mortgage on the property, but until they actually get a title policy, they cannot prove that until it is ready for the final prosecutor's review. This stipulation will remain. They added the ownership of the lot across the street and the parcel number. They stated that they will remove the structures prior to the plat being filed again. This will remain a stipulation. There were no comments made by the Developer or Engineer on the Building Inspector's comments.

Staff added two stipulations. One from the County Engineer that Stein Farms Subdivision Phases 1-4 be summarized with their earlier comments. Furthermore, without Improvement Plans, it is difficult to determine the proposed Plat layout. The second stipulation was that the County Engineer could approve the Plat layout, but would not be able to recommend the Plat be recorded until the improvements are completed or sureties posted.

There is a preservation easement on the back lots along Bates Creek. Staff added a stipulation that the Developer should explore turning this easement into a conservation easement, which entails contacting a 501 C3, Soil and Water, or a land trust to see if they would take it. A conservation easement would provide better protection of the property. The difference between a preservation easement and a conservation easement is that a preservation easement is held by the Homeowners Association; a conservation easement would be held by a governmental agency.

There are large lots that have two frontages, those lots that have 20-foot frontages on the proposed road, and they have legal frontages on Leroy-Thompson Road. The Developer will have no access to the 150 feet on Leroy-Thompson Road because of the preservation easement and because of the cliff. All the houses will have to be addressed to Glacier Cliff.

Mr. Charles Klco, Leroy Township Trustee, stated that he thought they had to have a 60-foot width for anything like that. Mr. Radachy replied the zoning said they would need to have 60 feet and 150 feet at the building setback at a regular road. They have proved they have 60 feet at Leroy-Thompson Road. Mr. Klco questioned about the access for the Fire Department and was told that Leroy Township zoning says they only need a 60-foot width on a dedicated road. This is similar to the estate zoning that Leroy had created. They have fee simple access for their driveways.

Staff is recommending approval of the Plat with 15 stipulations and 6 comments. The sight distance can be stipulated. They will then need to fulfill the 500-foot sight distance or the Plat does not get recorded. The decision of how they fulfill that 500-foot sight distance is to either cut the hill back to get the 500 feet or they can come back and ask for a variance. If the Board decides the sight distance cannot be adhered to at 350 feet, the Secretary cannot sign the Plat until all stipulations are fulfilled by variance or by actually fulfilling the stipulation.

Ms. Pesec questioned how this would affect things later when they were pretty far along with it; could they claim a hardship and then ask for a variance. Mr. Radachy replied they would have to claim that the hardship was based on the fact they could not adhere to our Regulations because of physical conditions. In this area, they do have a topographical condition that would allow them to request to vary it, but it is up to the Board to decide if, by granting this, they would be creating a safety issue.

Staff felt comfortable stipulating that they need to do the 500 feet because that is the Regulations. The Developer has heard the Board say time and time again that 350 feet is not doable because of safety issues. They can choose to continue and take the chance that the Board may deny it when it comes time for the variance. It is also difficult for us to make a determination on sight distance without improvement plans. We did grant them a variance to allow them to not submit the improvement plans at this time and we are now missing the information needed to determine without a doubt what that sight distance is.

Mr. Pegoraro questioned if there had been any talk about a "Plan B" if the sight distance is not attainable. Mr. Radachy replied that Plan B would be to purchase property along Kniffen Road or they could purchase land from the owner of what used to be the Girl Scout Camp. There is a temporary cul-de-sac at the back half of the property. The issue with property on Kniffen Road is that there is 1,900 feet to reach it and they may only be able to get one lot on that road because a new lot would need to be 3 acres because of the new zoning.

The Chair summarized these statements by saying staff was advising to go forward with the stipulations provided. If this is approved by this Board and, if they do not fulfill them, they cannot file the Plat. A variance is not on the table at the present time.

Mr. Franz was concerned about the difference between the three and one half foot object versus the two foot calculation. He thought it should be a standard calculation.

Mr. Radachy stated that he had not seen this particular type of definitive calculation in the past for sight distance. This is only the second time he had seen a sight distance calculation be submitted to the County Engineer. Last time was Concord Farms at the end of Weathersfield where there was a long cul-de-sac that wrapped around and they thought about bringing it back to Morley Road but because it was over the bridge, could not get sight distance. Ms. Pesec

thought there was a sight issue with Mr. Dawson's Eye Will subdivision. Mr. Radachy replied that this was easily solved by moving the road closer to the dip so you were able to see into it.

At this point, Mr. David Novak of Barrington Consulting Group requested to address this issue. He wanted to reiterate that until this issue is resolved, nothing would be built. Part of the issue they were having was there was someone here from the Ohio Dept. of Transportation at a previous meeting who implied he had some jurisdiction over this intersection that was being created. Mr. Radachy, and Mr. Hadden at the County Engineer Dept., both indicated that ODOT did not have any jurisdiction here.

The other problem was concerning standard calculations. There are issues within the Subdivision Regulations. He prepared a letter to Mr. Hadden stating the Subdivision Regulations do not define a thoroughfare, collector street, and urban street. Based on these criteria, there were different sight distances required. In their opinion, this road type would be a collector street, which would have a sight distance of 300 feet. Based on the actual calculations done on actual topography, they were at 380 feet. Mr. Hadden responded by saying they had to meet the ODOT standard, not meaning that ODOT has any jurisdiction over it, but that is the required standard that they were applying to the sight distance regardless of what the County Regulations state. This added to the confusion they were having in being able to determine these calculations. Part of the problem is that their topography was based on flown topography and it does not go to the 500 feet. They are at 450 feet. They need to gather more field data to make sure that they can accomplish this sight distance.

Mr. Hadden had emailed Mr. Novak indicating that there were alternatives when someone could not meet the sight distance, such as mirrors and signs to slow the traffic down. They did a study that the speed limit on Leroy-Thompson Road is 45 mph and when aggregated, showed people were actually travelling 50 mph through this area. According to Mr. Hadden, even with the ODOT standard, you would normally add five miles per hour when you did your calculations. It is not just a simple calculation. Mr. Novak thought, even with all the calculations, the best way to do it is to physically go out there and measure it so everyone can see it.

Mr. Novak continued that this situation is a little unique because in order to make some of those measurements, they might have to move some dirt and take some trees down on Sublot one to be able to see that 500-foot sight distance. There are alternatives to satisfying ODOT's standards. They are working hard to accomplish it, but it is taking them time to get the answers to know on what basis to do the calculations.

He also commented on the preservation easement by saying they are more than willing to change that and make it a conservation easement if Soil and Water is willing to take it.

Mr. Franz did not understand where the County came in with ODOT regulations trumping everything. Mr. Novak replied that the County code states it is 500, 300 and 200, depending on the classification of the road. When they talk about a major thoroughfare, which is the highest class at 500, those are roads with wider right-of-ways and other things that Leroy Township does not have. That is why they will not call it a major thoroughfare.

Mr. Zondag said he had talked to the man from ODOT also after the meeting and he said he came in no official capacity that night. One of the things said was that he came because S.R. 86 is a traffic problem, and it is. S.R. 86 is a major thoroughfare. He drove it on a regular basis. No matter what time of day or night you drive through there, it is a major question mark. Having said that, he wanted to make it clear that what the man from ODOT was saying was that he wanted us to make sure that whatever happened was for the best of the people in that area.

Mr. Novak was not disputing this. He was just making the comment that these Subdivisions were not on S.R. 86, but Leroy-Thompson Road.

Mr. Radachy replied to the comment on the 500/300/200 sight distances saying staff has always enforced 500 feet when a road is connected to an existing right-of-way. We have never gone below 500 feet. Even by ODOT standards for a road that is 45 mph, the distance would be 450 feet.

Mr. Novak agreed with that. He stated when you go through the response that Mr. Hadden gave them, sight distance is 45 mph and it would be 450. But, within the standards for ODOT, they automatically request that you add another five miles to that which would bring the speed to 50 mph with a 500-foot sight distance. There is also a sight stopping distance which is a little less than the sight distance. The Regulations do not state a sight distance of 500 feet even if that is what has been used in the past. He said he will interpret it his way.

Mr. Brotzman asked Mr. Radachy to repeat how he had stated the sight distance comment previously and he replied that this Board has always enforced the 500 feet when connecting to an existing major thoroughfare. Every time we connect to a road like Leroy-Thompson, Girdled Road or Ravenna Road, it has always been 500 feet. Between roads that come out together on the same side, there has to be 500 feet clear viewing. So if the road turns like Leroy-Thompson does, then you do not have the 500 feet to see down the street. When you are looking at Bill Dawson's property, there was an issue on Girdled Road where there was a dip. In order to see 500 ft down Girdled Road, you had to move the road to a point where you could see 500 feet in both directions. The road had to be moved so you could see 500 feet up and down the dip and back out of the dip. If there are two roads that come out on the same side, they have to be 500 feet apart. If a road is coming in on the opposite side, it is allowed to come in at a 150-foot offset distance or have to be straight across from one another.

When asked, Mr. Radachy stated that these were a part of the Planning Commission Subdivision Regulations.

Mr. Novak begged to differ because the sight distance they were talking about, if you read the Regulations, does not indicate that you have to have 500 feet. Again, he was not questioning that this Board or this County has always enforced the 500 feet. It is what the Regulations say. That may be something that this Board needs to review so that in the future he could not stand up and say he had conflict because the code says one thing, the County Engineer is telling him something else and he was going to interpret that his way.

Mr. Horacek stated the Subdivision Regulations say the sight distance needs to be 500 feet for major highways. The Regulations do not define what major highways are and, as Mr. Novak said, there are three classifications of collector street, major highway and urban street, but there are no definitions for these. Subsequently, in the Regulations there are design standards for each of these and for a major highway showing there are to be 80-100 foot right-of-ways in certain curves and that sort of thing. To say that the major highway is defined as having an 80-100 foot right-of-way is not exactly accurate. It is more like, if a street is going in that is classified as a major highway, then it has to meet those design standards. Definitions are not set out in these Regulations for what each of those streets mean.

Mr. Zondag thought when we looked at the feeder into S.R. 86, we are pumping traffic into S.R. 86 where there is a blind spot. We can pretend it does not exist, but it does exist. Unfortunately, Mr. Radachy reminded him, it does exist but we are only allowed to do onsite improvements. We cannot take that into consideration.

One other thing Mr. Novak remarked on concerned Sublot 1 with an easement on it. If it came to a point where they would have to lose Sublot 1 to be able to cut the vegetation back farther and cut the ground down so that they could accomplish this 500 sight distance, they may pursue this. It is a complicated issue and they will try to resolve it.

John Monroe, Attorney for the property owner, said it was important to remember what exactly the applicant is asking for tonight. He thought the Board was feeling a little concerned because they were signing off on this. He did not think that was the case. He thought what Dave Radachy has suggested is that they continue to work through the issues with the County Engineer and once the County Engineer is fine with it, then the improvement plans will be required and they will have to go through and finish the process. He said it was important to remember what step in the process is here. This is not like you are saying yes this is done. You are saying it is done, but this issue needs to be resolved. It will be resolved one way or the other. Even if Phase 1 will remain platted, it may just be subject to an easement for the entire subplot if that is the resolution, but the Plat should not have to change. He thought the Engineer had

done a good job of addressing all of the other concerns that were raised through the various hearings. This is just down to the last one or two and it is important that it is going back to the Engineer and he will continue to work that out. We thank you for your time.

Mr. Adams asked Mr. Novak about a statement he made that nothing was going to happen until this issue was resolved. Mr. Novak said the Plat cannot be recorded until this issue is resolved.

Mr. Morse wanted to know what he meant by conditional. Mr. Novak replied it is conditional on them resolving the issues in the stipulations and comments. A lot of these issues have been resolved already.

Mr. Novak addressed the block length issue. He suggested that when you come in on Glacier Drive and get to the first intersection that is just a stub street to the west, they would make that a three-way stop. Now that block has been cut in half. Then, you go to the next intersection, War Eagle, and make that a three-way stop. They would be forcing the cars to periodically stop throughout the development. Mr. Novak also suggested they are willing to come up with something to satisfy the staff whether it be stamped concrete or rumble strips, or planting strips at the intersection to give the illusion that the road narrows. These are some alternatives that could be done within the proposed right-of-way, which would be detailed on the final improvement plans.

Mr. Siegel moved to approve the Stein Farms, Phase 1 Final Plat based on staff's recommendations with 15 stipulations and six comments and Mr. Franz seconded the motion.

Seven voted "Aye".  
One voted "Opposed".  
Motion passed.

#### Stein Farms, Phase 2, Resubmitted Final Plat, 20 Lots, 58.0367 Acres

Mr. Radachy stated a couple new stipulations were placed on Phase 2 of the Stein Farms Subdivision. Stipulation numbers 16, 17 and 18 on Phase 2 are new. The acceptance and dedication paragraph on the Cover Sheet is stating Phase 2 as Phase 1 on sublots 1-20. This needs to be corrected. The County Engineer would like to see another permanent parcel number added to the Plat so they would know where the slant is coming out. The preservation easement should be changed to a conservation easement.



Below are the stipulations and comments submitted along with the responses given by the Developer:

**Final Plat Stipulations:**

1. Glacier Cliff block length is 3,179.94 feet +/- . This exceeds the maximum block length of 2,100 feet by 1,179.94 feet. *Article IV Section 3(G)(2)* Variance was granted with conditions. Those conditions have not been adhered to yet.

**Developer response:** Stop signs will require traffic in all directions to stop at each intersection. This stop sign requirement will be shown on the improvement plans.

**Planning and Community Development:** Developer response does not address the issue of speed along block length that was varied by the Planning Commission. Staff supplied options such as islands, changes in pavement types, and curb bump outs as options. Staff and the developer's engineer discussed the options and they will look at them and other types when they submit the improvement plans.

2. Until improvement plans for the subdivision are approved, properly endorsed and accepted, no improvements such as sidewalks, water supply, storm sewers, sanitary sewerage facilities, gas service, electric service or lighting, grading, paving or surfacing of streets shall hereafter be made by the owner or owners or his or their agent, or by any public service corporation at the request of such owner or owners or his or their agent. *Art. I, Sec 4, B*

**Developer response:** No Comment

3. The plat cannot be recorded until the improvements are installed, inspected, accepted and placed into maintenance or a construction surety or bond is in place to guarantee construction of the improvements. *Article V Section 10*

**Developer response:** No Comment.

4. Any subdivision with a preliminary plan filed after 1/27/04 will be required to provide a three year maintenance bond or surety when the subdivision goes into the maintenance phase. *Article V Section 8(D)*

**Developer response:** No Comment.

5. Any changes to lot size, frontage or other dimensions required by other agencies (County Engineer, Lake County General District Health District, US Army Corps of Engineers, OEPA, etc.) will require the plat to be resubmitted. *Article VI Section 6*

**Developer response:** No Comment.



6. Signature lines need to be corrected. Replace Leroy Township Trustee Linda Burhenne with Heather Shelton and replace Lake County Planning Commission Secretary Jason Boyd with Russell Schaedlich. *Article III Section 6(D)(1)(c)*

**Developer response:** Signatures lines were revised per requested.

7. Proper easement language with storm sewer and drainage easements will be determined when the improvement plans are submitted. Changes may be required to the plat. *Article III Section 6(D)(1)(e) & (h)*

**Developer response:** No Comment.

8. The preservation areas must have bearings and distances. *LC Planning & Comm. Dev.*

**Developer response:** The easement configuration has been revised. Bearing and distances are now provided.

9. Easement language on the cover sheet and on the plat map must conform. The cover sheet has easement language for Local Service Drainage Easement and the plat has Drainage and Storm Sewer Easements on it. The standard easement language for easements handling storm water facilities that are maintained by the HOA or adjacent homeowners is the Local Service Drainage Easement. *Article III Section 6(D)(1)(e) & (h)*

**Developer response:** Easement Language has been revised per request.

10. Any mortgages on the right-of-way must be released prior to the plat being recorded. A title policy will be required to verify if mortgages exist or does not exist. *Article III Section 6(D)(1)(d)*

**Developer response:** There is no mortgage on any of the property. A title policy will be provided prior to the filing of the plat in order to verify no mortgage exists.

11. Stub streets are prohibited by the Lake County Subdivision Regulations. A temporary cul-de-sac easement for Glacier Cliff is required to be shown on the plat. *Art. III Sect. 6(D)(3)(h)*

**Developer response:** A temporary cul-de-sac easement has been added to Glacier Cliff.

12. Existing structures must be removed prior to final approval. *Leroy Twp. Zoning Inspector*

**Developer response:** Existing buildings will be removed prior to recording of the plat.

13. No residential building or structure, in whole or in part, shall be used or occupied until the residential building official has issued an approval in the form of a certificate of occupancy. The certificate of occupancy shall indicate the conditions under which the residential building shall be used. The building owner shall only use the structure in compliance with the certificate of

occupancy and any stated conditions. The residential structure and all approved building service equipment shall be maintained in accordance with the approval. When a residential building or structure is entitled thereto (constructed according to the approved construction documents, final tests and inspections are completed, and no orders of the building official are outstanding, or as permitted in section 111 of the current 2007 Residential Code of Ohio and all successors thereto), the residential building official shall issue a certificate of occupancy in a timely manner.  
*L.C. Building Official*

**Developer response:** No Comment.

14. The subdivision review requests for the Stein Farm Subdivision Plats Phases 1 through 4 can be summarized with our earlier comments. Furthermore, without improvement plans, it is difficult to determine if the proposed plat layout will conform to the improvement plans. Although the County Engineer can approve this general final plat layout, the County Engineer cannot recommend that the plat be recorded until either the improvements are completed or surety is posted to complete the subdivision. *Lake County Engineer*

**Developer response:** No Comment.

15. Prior to issuance of a Certificate of Occupancy, the Lake County Building Department shall have conformation and receive the Plumbing Certificate of Use from the Lake County General Health District, and conformation and receive the Final Grade / Drainage Inspection from the Lake County Engineer's Office or the Jurisdiction's City / Village Engineer. *L.C. Building Official*

**Developer response:** No Comment.

16. The Acceptance and Dedication section have the wrong phase information on all the phases except Phase 1. *Lake County Engineer*
17. Need to add the PPN for the parent parcel, 7A-8-2 to the map so we know what parcel the acreage is coming out of. *Lake County Engineer*
18. The preservation easement would be better served as a conservation easement to a proper authority. The developer shall explore the possibility of dedicating the preservation easement as a conservation easement.

**Plat Comment:**

1. Lots with a 20 foot drive will be addressed with the street it is located on. *Leroy Twp. Zoning Inspector*

**Developer response:** No Comment.

2. It is noted that access to the subdivision is proposed to be from Leroy-Thompson Road, not SR 86, but the subdivision entrance is approximately 700 feet from SR 86. A majority of the traffic is expected to enter and exit via SR 86.

**Developer response:** No Comment.

3. Subdivision lacks allowances for adequate fire prevention. *Leroy Twp. Fire Dept.*

**Developer response:** A pond and dry hydrant will be provided as part of Phase 1 improvements.

4. No hydrants, only one way into the development. A pond and dry hydrant would be needed for fire prevention. *Leroy Twp. Fire Dept.*

**Developer response:** A pond and dry hydrant will be provided as part of Phase 1 improvements.

5. We want to be in the same trench as power and phone. *Time Warner Cable*

**Developer response:** No Comment.

Staff recommended approval with fourteen stipulations and four comments and considered stipulations 6, 8, 9 and 11 as being fulfilled.

Mr. Siegel moved to approve Stein Farms, Phase 2 Final Plat based on staff's recommendations with 14 stipulations and five comments. Mr. Pegoraro seconded the motion.

Seven voted "Aye".  
One voted "Opposed".

#### Stein Farms, Phase 3, Resubmitted Final Plat, 21 Lots, 45.844 Acres

Staff had added additional stipulations as previously stated for the acceptance and dedication language on the Cover Sheet showing Phase 1 instead of Phase 3, The County Engineer would like to see another permanent parcel number added to the Plat, and the preservation easement should be changed to a conservation easement. The radius for a cul-de-sac on Fallen Timbers must be provided.

Staff is considering stipulation numbers five, seven, nine, 10, 11 and 12 fulfilled.

Below are the stipulations and comments submitted along with the responses given by the Developer:

#### **Final Plat Stipulations:**

1. Until improvement plans for the subdivision are approved, properly endorsed and accepted, no improvements such as sidewalks, water supply, storm sewers, sanitary sewerage facilities, gas service, electric service or lighting, grading, paving or surfacing of streets shall hereafter be made by the owner or owners or his or their agent, or by any public service corporation at the request of such owner or owners or his or their agent. *Art. I, Sec 4, B*

**Developer response:** No Comment

2. The plat cannot be recorded until the improvements are installed, inspected, accepted and placed into maintenance or a construction surety or bond is in place to guarantee construction of the improvements. *Article V Section 10*

**Developer response:** No Comment

3. Any subdivision with a preliminary plan filed after 1/27/04 will be required to provide a three-year maintenance bond or surety when the subdivision goes into the maintenance phase. *Article V Section 8(D)*

**Developer response:** No Comment

4. Any changes to lot size, frontage or other dimensions required by other agencies (County Engineer, Lake County General District Health District, US Army Corps of Engineers, OEPA, etc.) will require the plat to be resubmitted. *Article IV Section 6*

**Developer response:** No Comment

5. Signature lines need to be corrected. Replace Leroy Township Trustee Linda Burhenne with Heather Shelton and replace Lake County Planning Commission Secretary Jason Boyd with Russell Schaedlich. *Article III Section 6(D)(1)(c)*

**Developer response:** The signature lines have been corrected.

6. Proper easement language with storm sewer and drainage easements will be determined when the improvement plans are submitted. Changes may be required to the plat. Lake County Board of Commissioners will not take any storm water easements. *Article III Section 6(D)(1)(e) & (h)*

**Developer response:** No Comment

7. Easement language on the cover sheet and on the plat map must conform. The cover sheet has easement language for Local Service Drainage Easement and the plat has Drainage and Storm Sewer Easements on it. The standard easement language for easements handling storm water

facilities that are maintained by the HOA or adjacent homeowners is the Local Service Drainage Easement. *Article III Section 6(D)(1)(e) & (h)*

**Developer response:** The easement language has been revised.

8. Any mortgages on the right-of-way must be released prior plat being recorded. A title policy will be required to verify if mortgages exist or does not exist. *Art. III Sect. 6(D)(1)(d)*

**Developer response:** There is no mortgage on the property. A title policy will be provided prior to the filing of the plat in order to verify no mortgage exists.

9. Stub streets are prohibited by the Lake County Subdivision Regulations. A temporary cul-de-sac easement for Fallen Timbers is required to be shown the on plat. *Article III Section 6(D)(3)(h)*

**Developer response:** Temporary easement was added to Fallen Timbers.

10. A radius for the temporary cul-de-sac on Yukon Drive must be provided. *Art. III Sect. 6(D)(3)(h)*

**Developer response:** A radius has been added to the temporary cul-de-sac on Yukon Drive.

11. The preservation areas must have bearings and distances. *LC Planning & Comm. Dev.*

**Developer response:** The easement configuration has been revised. Bearings and distances are now provided.

12. Sublot 41 must maintain the 60 foot width which cannot be decreased between the right-of-way to the where the lot width increases to 150 feet. *Article IV Section 7(A)(3)*

**Developer response:** The geometry of Sublot 41 has been revised to maintain a minimum width of sixty feet.

- 13 Existing structures must be removed prior to final approval. *Leroy Twp. Zoning Inspector*

**Developer response:** The existing structures will be removed prior to filing of the plat.

14. No residential building or structure, in whole or in part, shall be used or occupied until the residential building official has issued an approval in the form of a certificate of occupancy. The certificate of occupancy shall indicate the conditions under which the residential building shall be used. The building owner shall only use the structure in compliance with the certificate of occupancy and any stated conditions. The residential structure and all approved building service equipment shall be maintained in accordance with the approval. When a residential building or structure is entitled thereto (constructed according to the approved construction documents, final tests and inspections are completed, and no orders of the building official are outstanding, or as permitted in section 111 of the current 2007 Residential Code of Ohio and all successors

thereto), the residential building official shall issue a certificate of occupancy in a timely manner.  
*L.C. Building Official*

**Developer response:** No Comment

15. Prior to issuance of a Certificate of Occupancy, the Lake County Building Department shall have confirmation and receive the Plumbing Certificate of Use from the Lake County General Health District, and confirmation and receive the Final Grade / Drainage Inspection from the Lake County Engineer's Office or the Jurisdiction's City / Village Engineer. *L.C. Building Official*

**Developer response:** No Comment

16. The subdivision review requests for the Stein Farm Subdivision Plats Phases 1 through 4 can be summarized with our earlier comments. Furthermore, without improvement plans, it is difficult to determine if the proposed plat layout will conform to the improvement plans. Although the County Engineer can approve this general final plat layout, the County Engineer cannot recommend that the plat be recorded until either the improvements are completed or surety is posted to complete the subdivision. *Lake County Engineer*

**Developer response:** No Comment

17. The Acceptance and Dedication section have the wrong phase information on all the phases except phase 1. *Lake County Engineer*
18. Need to add the PPN for the parent parcel, 7A-8-2 to the map so we know what parcel the acreage is coming out of. *Lake County Engineer*
19. The preservation easement would be better served as a conservation easement to a proper authority. The developer shall explore the possibility of dedicating the preservation easement as a conservation easement.
20. A radius for the cul-de-sac on Fallen Timbers must be provided. *Article III Section 6 (D)(3)(h)*

**Plat Comment:**

1. Lots with a 20 foot drive will be addressed with the street it is located on. *Leroy Twp. Zoning Inspector*

**Developer response:** No Comment

2. It is noted that access to the subdivision is proposed to be from Leroy-Thompson Road, not SR 86, but the subdivision entrance is approximately 700 feet from SR 86. A majority of the traffic is expected to enter and exit via SR 86.

**Developer response:** No Comment

3. Subdivision lacks allowances for adequate fire prevention. *Leroy Twp. Fire Dept.*

**Developer response:** A pond and dry hydrant will be provided as part of phase 1 improvements.

4. No hydrants, only one way into the development. A pond and dry hydrant would be needed for fire prevention. *Leroy Twp. Fire Dept.*

**Developer response:** A pond and dry hydrant will be provided as part of phase 1 improvements.

5. We want to be in the same trench as power and phone. *Time Warner Cable*

**Developer response:** No Comment

Staff recommended approval with 14 stipulations and five comments.

Mr. Pegoraro questioned the stipulations and comments concerning the Township wanting dry hydrants and ponds. Mr. Radachy stated the Developer has said that he is willing to provide those, but these will be addressed when they come in with the improvement plans.

Mr. Pegoraro moved to approve Stein Farms, Phase 3 Final Plat with the 14 stipulations and five comments submitted by the staff. Mr. Siegel seconded the motion.

Seven voted "Aye".  
One voted "Nay".

#### Stein Farms, Phase 4, Resubmitted Final Plat, 15 Lots, 33.4424 Acres

Staff had added stipulations 16, 17 and 18 on Stein Farms, Phase 4 Subdivision Final Plat. The Acceptance and Dedication language on the Cover Sheet is showing Phase 1 instead of Phase 4, the Engineer would like to see another permanent parcel number added to the Plat, and the preservation easement should be changed to a conservation easement.

Staff considered stipulations five, seven, 10, 11 and 12 fulfilled and recommended approval with 14 stipulations and five comments.

Below are the stipulations and comments submitted along with the responses given by the Developer:

#### **Final Plat Stipulations:**

1. Until improvement plans for the subdivision are approved, properly endorsed and accepted, no improvements such as sidewalks, water supply, storm sewers, sanitary sewerage facilities, gas service, electric service or lighting, grading, paving or surfacing of streets shall hereafter be made by the owner or owners or his or their agent, or by any public service corporation at the request of such owner or owners or his or their agent. *Art. I, Sec 4, B*

**Developer response:** No Comment

2. The plat cannot be recorded until the improvements are installed, inspected, accepted and placed into maintenance or a construction surety or bond is in place to guarantee construction of the improvements. *Article V Section 10*

**Developer response:** No Comment

3. Any subdivision with a preliminary plan filed after 1/27/04 will be required to provide a three-year maintenance bond or surety when the subdivision goes into the maintenance phase. *Article V Section 8(D)*

**Developer response:** No Comment

4. Any changes to lot size, frontage or other dimensions required by other agencies (County Engineer, Lake County General District Health District, US Army Corps of Engineers, OEPA, etc.) will require the plat to be resubmitted. *Article VI Section 6*

**Developer response:** No Comment

5. Signature lines need to be corrected. Replace Leroy Township Trustee Linda Burhenne with Heather Shelton and replace Lake County Planning Commission Secretary Jason Boyd with Russell Schaedlich. *Article III Section 6 (D)(1)(c)*

**Developer response:** Signature lines were revised accordingly.

6. Proper easement language with storm sewer and drainage easements will be determined when the improvement plans are submitted. Changes may be required to the plat. Lake County Board of Commissioners will not take any storm water easements. *Article III Section 6 (D)(1)(e) & (h)*

**Developer response:** No Comment

7. Easement language on the cover sheet and on the plat map must conform. The cover sheet has easement language for Local Service Drainage Easement and the plat has Drainage and Storm Sewer Easements on it. The standard easement language for easements handling storm water facilities that are maintained by the HOA or adjacent homeowners is the Local Service Drainage Easement. *Article III Section 6 (D)(1)(e) & (h)*



**Developer response:** The easement language has been revised.

8. Any mortgages on the right-of-way must be released prior to the plat being recorded. A title policy will be required to verify if mortgages exist or do not exist. *Art. III Section 6 (D)(1)(d)*

**Developer response:** There is no mortgage on the property. A title policy will be provided prior to the filing of the plat in order to verify no mortgage exists.

9. A radius for the cul-de-sac on Fallen Timbers must be provided. *Article III Section 6 (D)(3)(h)*

**Developer response:** The radius of the cul-de-sac right-of-way on Fallen Timbers is provided on page 3 in the curve table data.

10. The preservation areas must have bearings and distances. *Article III Section 6 (D)(1)(e) & (h)*

**Developer response:** The easement configuration has been revised. Bearings and distances are now provided.

11. Confirm that Sublot 69 conforms to zoning. The frontage of the lot is 142 feet and the area between where the width is substandard to 150 feet and where the lot width is 150 feet does not count towards the lot area. Sublot 69 is close to the minimum lot size and this issue may reduce it below the allowable area. *Article IV Section 7(A)(3)*

**Developer response:** The geometry of Sublot 69 has been revised to achieve the required minimum acreage.

12. Existing structures must be removed prior to final approval. *Leroy Twp. Zoning Inspector*

**Developer response:** The existing structures to be removed prior to the recording of the plat.

13. No residential building or structure, in whole or in part, shall be used or occupied until the residential building official has issued an approval in the form of a certificate of occupancy. The certificate of occupancy shall indicate the conditions under which the residential building shall be used. The building owner shall only use the structure in compliance with the certificate of occupancy and any stated conditions. The residential structure and all approved building service equipment shall be maintained in accordance with the approval. When a residential building or structure is entitled thereto (constructed according to the approved construction documents, final tests and inspections are completed, and no orders of the building official are outstanding, or as permitted in section 111 of the current 2007 Residential Code of Ohio and all successors thereto), the residential building official shall issue a certificate of occupancy in a timely manner.  
*L.C. Building Official*

**Developer response:** No Comment

14. Prior to issuance of a Certificate of Occupancy, the Lake County Building Department shall have conformation and receive the Plumbing Certificate of Use from the Lake County General Health District, and conformation and receive the Final Grade / Drainage Inspection from the Lake County Engineer's Office or the Jurisdiction's City / Village Engineer. *L.C. Building Official*

**Developer response:** No Comment

15. The subdivision review requests for the Stein Farm Subdivision Plats Phases 1 through 4 can be summarized with our earlier comments. Furthermore, without improvement plans, it is difficult to determine if the proposed plat layout will conform to the improvement plans. Although the County Engineer can approve this general final plat layout, the County Engineer cannot recommend that the plat be recorded until either the improvements are completed or surety is posted to complete the subdivision. *Lake County Engineer*

**Developer response:** No Comment

16. The Acceptance and Dedication section has the wrong phase information on all the phases except Phase 1. *Lake County Engineer*
17. Need to add the PPN for the parent parcel 7A-8-2 to the map so we know what parcel the acreage is coming out of. *Lake County Engineer*
18. The preservation easement would be better served as a conservation easement to a proper authority. The developer shall explore the possibility of dedicating the preservation easement as a conservation easement.

**Plat Comment:**

1. Lots with a 20 foot drive will be addressed with the street it is located on. *Leroy Twp. Zoning Inspector*

**Developer response:** No Comment

2. It is noted that access to the subdivision is proposed to be from Leroy-Thompson Road, not SR 86, but the subdivision entrance is approximately 700 feet from SR 86. A majority of the traffic is expected to enter and exit via SR 86.

**Developer response:** No Comment

3. Subdivision lacks allowances for adequate fire prevention. *Leroy Twp. Fire Dept.*

**Developer response:** A pond and dry hydrant will be provided as part of phase 1 improvements.

4. No hydrants, only one way into the development. A pond and dry hydrant would be needed for fire prevention. *Leroy Twp. Fire Dept.*

**Developer response:** A pond and dry hydrant will be provided as part of phase 1 improvements.

5. We want to be in the same trench as power and phone. *Time Warner Cable*

**Developer response:** No Comment

Mr. Siegel moved to approve Stein Farms, Phase 4 with staff's recommendations and 14 stipulations and five comments. The motion was seconded by Mr. Franz.

Mr. Morse questioned if the turnarounds were addressed on this. Mr. Radachy replied that they were.

Seven voted "Aye".  
One voted "Nay".

Mr. Radachy addressed the Chair and asked if the Land Use and Zoning Committee could be moved up to be next on the agenda because Mr. Charles Klco needed to be elsewhere. The Chair gave permission for this to be done.

#### Land Use and Zoning Committee

Mr. Chuck Klco said that Leroy Township Trustees passed a resolution to put Mr. Anthony Falcone on the Land Use and Zoning Committee to represent them. Mr. Falcone had been on their Zoning Board of Appeals for about four years and they believed he would be a good addition to this Committee.

Mr. Radachy had a resume for Mr. Falcone. Not only had he been on Leroy Township's Zoning Board of Appeals, but at one time he also served on the City of Painesville Parks and Recreation Commission as Chair for two years. Mr. Falcone had been asked to complete the term Ms. Evelyn Ross left when she retired. Her term would have ended in August 2015.

Mr. Siegel moved to appoint Mr. Falcone as a member of the Land Use and Zoning Committee to complete Ms. Ross' term and Ms. Pesec seconded the motion.

All voted "Aye".

### Madison Township – Lakeshore Farms, 1978 Final Plat Approval

A letter from the Madison Township Administrator, Mr. Lee Bodnar, was received asking us to address an issue that has appeared on the Lakeshore Farms Plat. The Plat was filed and recorded in 1978. The original stipulations that were sent to the Township were included in tonight's package. Looking at number eight, Mr. Radachy stated that the lake is in no way the responsibility of the Township for maintenance or in green area. The Plat shows there is a drainage easement on top of the lake going to the Township. In 1978, it was not their intention to have maintenance responsibility over this lake.

Staff recommended that this Board direct staff to figure out how to alleviate Madison Township's obligations for this easement. One option is to declare that this was a mistake and have the Surveyor do a plat of correction removing the easement. An alternative would be to help Madison Township vacate this easement.

Mr. Franz assumed this meant that there was some work to do and this was going to cost someone some money. Mr. Radachy said the lake does need work and currently Madison Township is helping the homeowners along with Stormwater to fix the issues prior to them releasing the easement. They will not be leaving the homeowners with an issue. They are just asking to be alleviated from any future obligations on this.

Mr. Radachy stated they were having some erosion issues on the dam. Stormwater Management and the Township are designing plans to fix the erosion issue. He thought both Stormwater and the Township will pay for the repairs at a cost of about \$10,000.

Mr. Franz asked where the responsibility would be ultimately shifted and was told it would be shifted to the property owners. Only the homeowners that abut the lake would be responsible.

Mr. Zondag stated the submitted paperwork did not show any water. He inquired if this Body's response was necessary at this time and if it could be tabled if they did not want to get into further discussion on it here.

Mr. Radachy explained that they could table the motion because it was not a Plat that needed to be acted upon in 30 days. He showed the members where the lake in question was on the screen. It had a 36-inch high pressure gas line going through it and is why the Township and Stormwater were getting involved. They do not want the dam to blow out and expose the gas line. The water is flowing north, down a pipe and out an old culvert at the bottom of the dam. They ran into an issue with the roots of a couple weeping willow trees getting into the pipe blocking the water. They were able to open it. While the roots were blocking it, the water was flowing over and causing the erosion problem. They will be

building an emergency spillway, do some grading, put down some rip raff and protect the dam in the future. The Township would like to see the easement go away at that time.

Mr. Brotzman inquired if the gas company had a 60-foot easement with that pipe going through the dam and have some say in the integrity of the dam.

Mr. Radachy replied that Madison Township and Lake County Stormwater would have to work with the gas company on that issue.

Mr. Zondag asked what would happen if the lake was drained and Mr. Radachy said the dam would still have to be fixed because the homeowners do not want to drain the lake.

Mr. Radachy was told the homeowners had maintained the lake since 1978. They did not know that Madison Township had the easement on it until recently. They have maintained and done some of their own improvements over the years and would continue to maintain it. One of the homeowners collects money from the other residents around the lake once a year for maintenance of the dock and the lake.

Mr. Radachy was asked who would hold the maintenance responsibility for the drainage easement if the Township was released of this responsibility. Mr. Radachy replied that the Township has no liability on the drainage easement, which gives the Township the right of use to maintain the drainage system. Right now it is the Township's responsibility to make sure the detention stays in there.

The Chair was concerned if they were to let the Township out of everything and the homeowners were to decide to do nothing creating a quandary. Mr. Siegel said there were Trustees who signed the Cover who may be dead.

Mr. Radachy stated the current Board of Trustees asked us to look into this issue.

The Assistant Prosecutor was asked if there were a legal standpoint to changing or not changing this.

Mr. Pegoraro thought the problem would lie between the Trustees and the homeowners. In the late 70's, the Township wanted dedicated green space. Afterwards, they were getting all these little pieces that were hard to maintain and changed their minds. He felt this was in the middle of all that.

Mr. Radachy had read through the file and there was an in-lieu-of-fee for green space in this Subdivision. This Subdivision did not have any dedicated open space.

Mr. Siegel moved to table this motion so legal could check into what our options were on this.

Mr. Horacek was not clear on what they wanted. Mr. Zondag replied they wanted to know what the Commission's responsibilities were in this situation.

Mr. Radachy reiterated that the Planning Commission's options were to say we made a mistake and have the surveyor of record come back with a new Plat and do a plat of correction and file an affidavit with the Auditor saying this easement was not supposed to have been platted so we are putting a new Plat on without the easement. The other option is to tell Madison Township if they do not want the easement any more, they have to vacate it on their own.

The Chair stated that Mr. Siegel's motion had no standing because the options were already on the floor.

A member said he would like to see someone take responsibility for that pond before the Commission did anything. Mr. Horacek said the homeowners own it in fee simple. They own the pond. Mr. Adams asked if they have a legal standing and Mr. Horacek said they did because it was their property. Mr. Horacek said there were other ponds like that in the County. Now they do not plat all the way to the center of the pond, but years ago they did. It is owned by the homeowners. No one else can go in swimming. That is private property and 100% their responsibility.

The Chair clarified the two options standing before the Commission. One would be to make a motion that we made an error in platting, have it re-platted and it goes to the homeowners surrounding the lake. The second option is to send a notice to the Township that we are not taking action at the present time and it is their responsibility to work it out with the homeowners. Mr. Radachy corrected the second option as saying we are not responsible and the Township should take it back to the homeowners.

Mr. Horacek stated, if it was a legitimate mistake to have it signed like that, this Body should take the action to correct that mistake.

The Chair asked who made the legitimate mistake. Mr. Radachy said this Board stipulated number eight on the Plat. When the easement was placed on top of the lake, we were not fulfilling that stipulation by giving Madison Township maintenance responsibility of the lake. All stipulations were not fulfilled and the Secretary should not have signed the Plat nor have had it recorded until that issue was resolved.

Mr. Horacek said this would be the same as filing the Stein Farm Plats without the sight distance being addressed.

Mr. Pegoraro moved to accept the responsibility of our error, have the changes made, have a new Plat filed and direct staff to take steps to correct the error. The motion was seconded by Mr. Franz.

Staff would recommend that we admit to our error and be instructed to go forth to contact Land Design Consultants, pursue having it corrected and record it again.

Ms. Pesec questioned who would pay for this to be done. Mr. Radachy was not sure who would be financially responsible. There would be filing fees. If we could find the Developer, we could possibly have him do it. Mr. Pegoraro believed the Developer had passed on. Ms. Pesec stated someone would have to pay Land Design. Mr. Pegoraro stated the Land Design of that time does not exist any more.

Chair Zondag clarified his understanding of the motion. You want us to basically admit that it was our fault that the Plat was not filed properly, absolve Madison Township of the maintenance responsibility and then have it refilled properly. Also to direct the staff to take steps to correct the error.

Mr. Siegel was concerned about who was going to do it. That Land Design does not exist any more. Mr. Radachy said if the new Land Design is not willing to do it, then we will check with Madison Township because they were the ones who wanted the change. Mr. Radachy replied that we will attempt to work out something with Madison Township on the financial side if Land Design will not stand by it.

All voted "Aye".

## LAND USE AND ZONING REVIEW

### Madison Township – Zoning District Change from B-1, Neighborhood Business to R-2, Single Family

There was only one case and the Land Use and Zoning Committee did not meet because staff felt the case was open and shut. The request was to rezone a piece of property that is relatively a spot zone from B-1 of nine acres on Bennett Rd. and switch it from B-1 to R-2, which is the zoning of the surrounding property. The Comprehensive Plan recommends it become R-2. The new property owner wants to build a house on the property and is requesting this zoning to be changed to R-2.

Staff is recommending it be rezoned to R-2.

Mr. Morse moved to accept staff's recommendation to change this property from B-1 to R-2. Mr. Pegoraro seconded the motion.

All voted "Aye".

## REPORTS OF SPECIAL COMMITTEES

### Coastal Plan Committee

The Lake County Coastal Plan Committee minutes were included in the handout. The next meeting will be held on May 28, 2014.

There was a request for a new appointment on the Lake County Coastal Plan Committee, Mr. Peter Zahirsky. Mr. Radachy stated Mr. Zahirsky works for the Lake County Port and Economic Development Authority as Coastal Manager. They are trying to institute some Coastal Plan changes and to find money to create some of the development that was promoted in the Plan of the different coastal communities. Mr. Zahirsky is now in charge of that at the Port Authority and its Director has requested he be considered for appointment.

Mr. Pegoraro moved that this appointment be made and Mr. Adams seconded the motion.

Seven voted "Aye".

One Abstained.

## CORRESPONDENCE

There was no correspondence.

## OLD BUSINESS

There was no old business.



## NEW BUSINESS

Mr. Radachy had a request for a resolution of support for Community Development Week. The National Community Development Association has designated the week of April 21-26, 2014 as National Community Development Week to celebrate the Community Development Block Grant (CDBG) Program and the HOME Investment Partnerships (HOME) Program.

Mr. Morse moved to accept the Resolution and Ms. Hausch seconded the motion.

All voted "Aye".

The second resolution of support was to recognize Fair Housing Month.

Mr. Siegel moved to accept the Resolution of Support for Fair Housing Month and Ms. Hausch seconded the motion.

All voted "Aye".

## PUBLIC COMMENT

### Kimball Estates

Mr. Brotzman commented that last month Mr. Somers was speaking on the Concord Ridge Subdivision and asked for a variance to permit clearing and grading for the road. He asked him what he was going to do with the stumps and his reply was something to the effect that no developer today buries stumps on sites. Last week while speaking to the man, who did the clearing on Kimball Estates, he confirmed that all of the brush and stumps were buried in the back yards of every individual lot that generated them. According to him, none were taken away. The Health Dept. Regulations permit that. He would like to see this Body, when faced with plans that indicate wooded lots will be cleared, make a comment or stipulate that bulky woody material is to be taken off site and not buried in the back yards in the best interest of the health and welfare of those people who have yet to move in there. He felt they were creating a liability by allowing stumps to be buried. Irrespective of the Health Department Regulations, he would like to see this Board comment on that.

Mr. Pegoraro commented that, at the very least, a burial area should be identified and some sort of open space easement created over it to prevent a homeowner from putting a

septic system over it, building a garage on it or a basketball court. Also, wood chips, if not incorporated in the soil backfill can create a liability.

Ms. Pesec asked if it could be stipulated and was told it would have to be put in the Regulations first.

#### Directive for Subdivision Regulations Amendments

Mr. Radachy stated that, along with the burial of bulky woody material issue, a couple other issues have popped up on the Regulations that staff should address. He will talk to Soil & Water and the Health District to see who has this responsibility in order to get this into the Regulations so it can be stipulated. Also to consider is the 500-foot sight distance definition issue on road classifications that came up tonight showing a conflict between the County Engineer's standards and the Subdivision Regulations.

Mr. Brotzman commented about the sight distance issue stating that when you have a winding road or any peculiarities with a portion of a road, it is pretty hard to make a definition that fits that scenario. You almost need to have a best management practice that applies to topographical conditions.

Mr. Pegoraro stated that maybe it ought to be based on speed rather than road classification.

Mr. Radachy explained that there used to be a set account on how to do a road profile in the Subdivision Regulations. There have been so many different road designs that our version was not the norm any more. When we revisited the Subdivision Regulations, it was decided just to acknowledge the County Engineer's regulations and specify that was what was to be followed. In a situation such as this, we might just eliminate all sight distances and reference ODOT and the County Engineer standards as opposed to having a 500-foot or 350-foot sight distance. This can be figured out with the County Engineer. We could reference their regulations or add their regulations to our own. We will continue to have our block lengths, offsets and cul-de-sac lengths in our Subdivision Regulations.

Mr. Zondag was concerned that if someone comes in and disagrees with our Regulations that we be on solid ground to disagree with them. He was upset when he heard from their attorney that we did not have it definitively stated in our language. He believes they are going to push every boundary they can in the Stein Farm Final Plat sight distance issue. The safety issue is a large concern.

Mr. Horacek, when asked if he felt comfortable defending what is in the Regulations in this case now, replied that it would be at the Board's discretion to define that street as a major highway or not. He was comfortable defending the Board, but whether or not we would be successful in a Court of Common Pleas or if we would be rejected on that basis alone is unknown. It would not be an open and shut case.

Mr. Horacek stated that in this instance, the stipulation was for 500 feet. Unless they decide to appeal that to a Court of Common Pleas in the next 60 days or so, they will be stuck with the 500 feet down the road. There is only a certain window in which they can fight this. There are three actions that can be taken when a Plat comes before you. Approve, deny and approve with stipulations or conditions. Obviously, if it is approved, there will not be any appeal. If it is denied, they can appeal that decision to the Court of Common Pleas. If it is approved with stipulations and they disagree with the stipulations, they can appeal it. You are only allowed to attach stipulations that comply with the rules and regulations. Their argument could be that the Commission attached this 500-foot stipulation that is not based on the rules and regulations. If they pursued it and had that taken off as a stipulation, he would think they would still be left with having to do a sight distance at 350 feet at the minimum.

It was Mr. Radachy's opinion that anytime a developer is looking to go against something in the Subdivision Regulations, they will find a way to go around the rule.

#### ADJOURNMENT

Mr. Zondag, Chair, adjourned the meeting by executive decision.

The meeting was adjourned at 7:25 p.m.